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**DOW, LOHNES & ALBERTSON**

ATTORNEYS AT LAW

1255 TWENTY-THIRD STREET

WASHINGTON, D. C. 20037

EX PARTE OR LATE FILED

TELEPHONE (202) 857-2500

FACSIMILE (202) 857-2900

CABLE "DOWLA"

TELEX 425546

LEONARD JERVEY KENNEDY

DIRECT DIAL NO.

857-2505

June 3, 1994

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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OFFICE OF SECRETARY

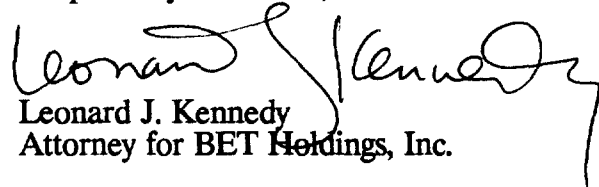
Re: Ex Parte Meeting  
PP Docket No. 93-253

Dear Mr. Caton:

On behalf of BET Holdings, Inc. and pursuant to Section 1.1206(a) of the Commission's Rules, this letter will constitute notice that on June 2, 1994, Robert L. Johnson, President and Chief Executive Officer, Debra L. Lee, Esquire, Executive Vice President, Legal Affairs, and Maurita K. Coley, Esquire, Senior Vice President, Legal Affairs, of BET Holdings, Inc., and the undersigned, met with Robert M. Pepper, Chief, Office of Plans and Policy, Donald Gipps, Deputy Chief, Office of Plans and Policy, Blair Levin, Chief of Staff and William E. Kennard, General Counsel, to discuss outstanding issues in the Commission's Competitive Bidding rulemaking proceeding. BET Holdings, Inc.'s views on the substantive issues discussed are indicated in the attached summary and supporting documents. An original and one copy of this letter has been submitted to the Secretary.

Should any questions arise in connection with this notification, please do not hesitate to contact the undersigned.

Respectfully submitted,

  
Leonard J. Kennedy  
Attorney for BET Holdings, Inc.

Attachment

CC: Mr. Robert M. Pepper  
Mr. Donald Gipps  
Blair Levin, Esquire  
William E. Kennard, Esquire

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**BET HOLDINGS, INC.**  
**PCS OVERVIEW**  
Competitive Bidding  
PP Docket No. 93-253

The advent of Personal Communications Services ("PCS") offers unparalleled opportunities for designated entities wishing to participate in the development of emerging technologies. The Commission is in the unique position of establishing a nationwide licensing and service framework that will include a wide variety of diverse individuals and businesses.

- **Set-asides.** Set-aside blocks are critical to designated entity success in the broadband PCS auctions.
- **Bidding Credits.** In addition to set-aside blocks for broadband PCS, the Commission should offer significant bidding credits to designated entities. Due to the highly competitive nature of the auctions and the considerable costs of constructing to the Commission's build-out requirements, a significant bidding credit is necessary to support and encourage designated entity participation.
- **Installment Payments.** The Commission should permit all designated entities, not just small businesses, to defer payments for their licenses through installment payment plans.
- **Tax Certificates.** The availability of tax certificates is important to designated entity participation in broadband PCS. Tax certificates will permit designated entities to attract needed capital. Tax certificates should be made available when an auction winner sells a license to a designated entity and when a designated entity sells a minority interest to a non-controlling investor.
- **Preference Eligibility.** The Commission's definitions of control for minority based preferences are overly restrictive. De facto control in the designated entity is sufficient, regardless of whether the 50.1% equity ownership requirement is met. Permitting designated entity control in the operation of PCS systems will satisfy Congress' intent to encourage designated entity participation.
- **Application of Commission's Preferences.** The preferences afforded to designated entities should not be limited solely to smaller license blocks or a single form of preference, such as a bidding credit.

**"(b) IMPLEMENTATION OF NEW TECHNOLOGIES AND SERVICES.—**Notwithstanding any other provision of this part—

"(1) the Secretary may, consistent with section 104(e) of this Act, at any time allow frequencies allocated on a primary basis for Federal Government use to be used by non-Federal licensees on a mixed-use basis for the purpose of facilitating the prompt implementation of new technologies or services and for other purposes; and

"(2) the Commission shall make any allocation and licensing decisions with respect to such frequencies in a timely manner and in no event later than the date required by section 7 of the 1934 Act."

**(b) CONFORMING AMENDMENT TO ENSURE COLLECTION OF FCC FEES.—**Section 104 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 903) is amended by adding at the end the following new subsection:

**"(e) PROOF OF COMPLIANCE WITH FCC LICENSING REQUIREMENTS.—**

"(1) **AMENDMENT TO MANUAL REQUIRED.—**Within 90 days after the date of enactment of this subsection, the Secretary and the NTIA shall amend the spectrum management document described in subsection (a) to require that—

"(A) no person or entity (other than an agency or instrumentality of the United States) shall be permitted, after 1 year after such date of enactment, to operate a radio station utilizing a frequency that is authorized for the use of government stations pursuant to section 103(b)(2)(A) of this Act for any non-government application unless such person or entity has submitted to the NTIA proof, in a form prescribed by such manual, that such person or entity has obtained a license from the Commission; and

"(B) no person or entity (other than an agency or instrumentality of the United States) shall be permitted, after 1 year after such date of enactment, to utilize a radio station belonging to the United States for any non-government application unless such person or entity has submitted to the NTIA proof, in a form prescribed by such manual, that such person or entity has obtained a license from the Commission.

"(2) **RETENTION OF FORMS.—**The NTIA shall maintain on file the proofs submitted under paragraph (1), or facsimiles thereof.

"(3) **CERTIFICATION.—**Within 1 year after the date of enactment of this subsection, the Secretary and the NTIA shall certify to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that—

"(A) the amendments required by paragraph (1) have been accomplished; and

"(B) the requirements of subparagraphs (A) and (B) of such paragraph are being enforced."

**SEC. 6002. AUTHORITY TO USE COMPETITIVE BIDDING.**

**(a) USE OF COMPETITIVE BIDDING.—**Section 309 of the Communications Act of 1934 (47 U.S.C. 309) is amended by adding at the end the following new subsection:

**"(j) USE OF COMPETITIVE BIDDING.—**

**"(1) GENERAL AUTHORITY.—**If mutually exclusive applications are accepted for filing for any initial license or construction permit which will involve a use of the electromagnetic spectrum described in paragraph (2), then the Commission shall have the authority, subject to paragraph (10), to grant such license or permit to a qualified applicant through the use of a system of competitive bidding that meets the requirements of this subsection.

**"(2) USES TO WHICH BIDDING MAY APPLY.—**A use of the electromagnetic spectrum is described in this paragraph if the Commission determines that—

**"(A)** the principal use of such spectrum will involve, or is reasonably likely to involve, the licensee receiving compensation from subscribers in return for which the licensee—

**"(i)** enables those subscribers to receive communications signals that are transmitted utilizing frequencies on which the licensee is licensed to operate; or

**"(ii)** enables those subscribers to transmit directly communications signals utilizing frequencies on which the licensee is licensed to operate; and

**"(B)** a system of competitive bidding will promote the objectives described in paragraph (3).

Regulations.

**"(3) DESIGN OF SYSTEMS OF COMPETITIVE BIDDING.—**For each class of licenses or permits that the Commission grants through the use of a competitive bidding system, the Commission shall, by regulation, establish a competitive bidding methodology. The Commission shall seek to design and test multiple alternative methodologies under appropriate circumstances. In identifying classes of licenses and permits to be issued by competitive bidding, in specifying eligibility and other characteristics of such licenses and permits, and in designing the methodologies for use under this subsection, the Commission shall include safeguards to protect the public interest in the use of the spectrum and shall seek to promote the purposes specified in section 1 of this Act and the following objectives:

**"(A)** the development and rapid deployment of new technologies, products, and services for the benefit of the public, including those residing in rural areas, without administrative or judicial delays;

**"(B)** promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women;

**"(C)** recovery for the public of a portion of the value of the public spectrum resource made available for commercial use and avoidance of unjust enrichment through the methods employed to award uses of that resource; and

**"(D)** efficient and intensive use of the electromagnetic spectrum.

"(4) CONTENTS OF REGULATIONS.—In prescribing regulations pursuant to paragraph (3), the Commission shall—

"(A) consider alternative payment schedules and methods of calculation, including lump sums or guaranteed installment payments, with or without royalty payments, or other schedules or methods that promote the objectives described in paragraph (3)(B), and combinations of such schedules and methods;

"(B) include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services;

"(C) consistent with the public interest, convenience, and necessity, the purposes of this Act, and the characteristics of the proposed service, prescribe area designations and bandwidth assignments that promote (i) an equitable distribution of licenses and services among geographic areas, (ii) economic opportunity for a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women, and (iii) investment in and rapid deployment of new technologies and services;

"(D) ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of tax certificates, bidding preferences, and other procedures; and

"(E) require such transfer disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses and permits.

"(5) BIDDER AND LICENSEE QUALIFICATION.—No person shall be permitted to participate in a system of competitive bidding pursuant to this subsection unless such bidder submits such information and assurances as the Commission may require to demonstrate that such bidder's application is acceptable for filing. No license shall be granted to an applicant selected pursuant to this subsection unless the Commission determines that the applicant is qualified pursuant to subsection (a) and sections 308(b) and 310. Consistent with the objectives described in paragraph (3), the Commission shall, by regulation, prescribe expedited procedures consistent with the procedures authorized by subsection (i)(2) for the resolution of any substantial and material issues of fact concerning qualifications.

"(6) RULES OF CONSTRUCTION.—Nothing in this subsection, or in the use of competitive bidding, shall—

"(A) alter spectrum allocation criteria and procedures established by the other provisions of this Act;

"(B) limit or otherwise affect the requirements of subsection (h) of this section, section 301, 304, 307, 310, or 706, or any other provision of this Act (other than subsections (d)(2) and (e) of this section);

Regulations.

## HISTORY

NO. 103-213

amendment contained thirteen

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ve omitted them from the stat-  
orated herein by reference.

ND 309 (j) (2)

thority for the FCC to utilize  
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entities; for issuing new li-  
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c safety and radio astronomy  
applications (such as special-  
onautical end-user licenses);  
ederal license that is required  
or new technologies.

s the provisions of the House  
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ision to carry out its respon-

Agreement, competitive bid-  
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d when the Commission ac-  
plications for a license, and  
the principal use of that li-  
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2. Rept. 103-111) contains  
that would be covered by  
horized in this Act, which

al use of licenses in the In-  
he provision of educational  
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ons. The fact that the Com-  
service to allow MMDS op-  
en they are not needed for  
manner by which these li-

## BUDGET RECONCILIATION ACT

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[page 482]

censes will be issued as the result of the enactment of this legisla-  
tion. Similarly, although such licensees are permitted to receive  
payments from such MMDS operators, such payments are not to be  
construed by the Commission to indicate that ITFS licensees are  
receiving compensation from "subscribers" as that term is used in  
section 309(j)(2).

### SECTION 309 (j)(3)

#### *House bill*

Paragraph (3) of the House bill requires the Commission to es-  
tablish competitive bidding systems that meet the requirements of  
this section. In particular, the Commission is required to develop  
methodologies that promote the development and rapid deployment  
of new technologies; promote economic opportunity and competition  
and ensure that new and innovative technologies are available to  
the American people by avoiding excessive concentration and by  
disseminating licenses among a wide variety of applicants, includ-  
ing small business and businesses owned by members of minority  
groups and women; recover for the public a portion of the value of  
the public spectrum resource made available to the licensee and  
the avoidance of unjust enrichment; and promote the efficient and  
intensive use of the spectrum.

#### *Senate amendment*

Section 309(j)(2) requires the Commission seek to adopt rules  
to implement competitive bidding, and requires that such rules in-  
clude safeguards to protect the public interest and ensure the op-  
portunity for successful participation by small businesses and mi-  
nority-owned businesses.

The original House provision requires the Commission to dis-  
seminate licenses to a wide variety of applicants, including small  
businesses and businesses owned by minority groups and women.  
The Amendment adds rural telephone companies to the list of ex-  
amples of the term "wide variety of applicants."

#### *Conference agreement*

The Conference Agreement adopts the provisions of the House  
bill with an amendment. The amendment requires that the Com-  
mission disseminate licenses among a wide variety of applicants,  
including small business, rural telephone companies, and busi-  
nesses owned by members of minority groups and women.

### SECTION 309(j)(4)

#### *House bill*

Section 309(j)(4) contains requirements for the rules that the  
Commission must issue in order to implement this section. The  
Commission is required to consider alternative payment schedules  
and methods of calculation, including initial lump sums, install-  
ment or royalty payments, guaranteed annual minimum payments,  
or other schedules or methods (including combinations of methods)  
that promote the objectives of this Act.

In addition, the Commission is required to include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural and other areas, and to prevent stockpiling of frequencies.

Consistent with the public interest, the purposes of this Act, and the characteristics of the proposed service, the Commission is also required to prescribe area designations and bandwidth assignments that promote an equitable distribution of licenses and services among geographic areas; economic opportunity for a wide variety of applicants, including small businesses and businesses owned by members of minority groups and women; and investment in and rapid deployment of new technologies and services.

Finally, the Commission must require such transfer disclosures and antitrafficking restrictions and payment schedules as may be necessary to prevent unjust enrichment as a result of the methods employed to issue licenses.

#### *Senate amendment*

Section 309(j)(2)(C) requires that the Commission's rules implementing the amendments to section 309(j) establish the method of bidding (including but not limited to sealed bids) and the basis for payment (such as installment of lump payments, royalties on future income, a combination thereof, or other reasonable forms of payment as specified by the Commission).

Section 309(j)(3) requires the Commission to establish at least one license per market as a "rural program license" for any service that will compete with telephone exchange service provided by a qualified common carrier. This section also stipulates the terms and conditions for any such license, including requirements to pay an amount equal to the value of comparable licenses issued utilizing competitive bids.

#### *Conference agreement*

The Conference Agreement adopts the House provisions, with several amendments.

First, the Conference Agreement modifies the requirements regarding the use of installment or royalty payments and guaranteed annual minimum payments. The modification clarifies that the Commission can utilize payment schedules that include lump sums or guaranteed installment payments, with or without royalty payments.

The reason for the modification is to ensure that the Commission is not placed in the position of evaluating bids that are submitted solely in the form of promises to pay a royalty on future income, and attempting to determine which bid is greater based on speculation about the amount of money that will be generated thereby. Such a situation would force the Commission to assume all of the risk that is properly borne by the licensee and its financial underwriters, and force the Commission to make determinations that surely would be litigated, further delaying the availability of service to the public.

The Conference anticipates that under some circumstances, the Commission will require bidders to agree to pay a stipulated lump sum or annual minimum, and, in addition to those amounts, a per-

centage of future revenue. Such as litigation that and hold the Commission's future revenue.

The Conference provides economic consideration to small business groups and.

The Conference to include a provision, that requires rural telephone groups and work provision of special consideration the use of procedures.

#### *House bill*

Section 309 that will assure meet the Commission shall be granted if applicant is qualified sections 308(b) and it requires the resolution of an qualifications.

#### *Senate bill*

Section 309 that require providing an intent and containing necessary. After require the winner necessary in order.

This section bidding process contained in section

#### *Conference agreement*

The Conference

#### *House bill*

Section 309 that nothing in licenses shall limit communications Act Commission to

# BUDGET RECONCILIATION ACT

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(page 484)

centage of future revenues that are derived from the use of the license. Such an approach will reduce the likelihood of protracted litigation that could delay the availability of service to the public, and hold the Commission harmless in the event that projections of future revenue fall short.

The Conferees also agreed to require that the Commission provide economic opportunities for rural telephone companies in addition to small business and businesses owned by members of minority groups and women.

The Conference Agreement also modifies the House provision to include a provision, based on but not identical to a Senate provision, that requires the Commission to ensure that small businesses, rural telephone companies, and businesses owned by minority groups and women are given the opportunity to participate in the provision of spectrum-based services, and, for such purposes, consider the use of tax certificates, bidding preferences and other procedures.

## SECTION 309(j)(5)

### *House bill*

Section 309(j)(5) requires the Commission to adopt procedures that will assure that no license is accepted for filing that does not meet the Commission's requirements. It provides that no license shall be granted unless the Commission determines that the applicant is qualified pursuant to subsection (a) of section 309 and sections 308(b) and 310 of the Communications Act of 1934. Finally, it requires the Commission to adopt expedited procedures for the resolution of any substantial and material issues of fact concerning qualifications.

### *Senate bill*

Section 309(j)(2)(B) instructs the Commission to prescribe rules that require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process, and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission must require the winner to submit such other information as it deems necessary in order to determine that the bidder is qualified.

This section also clarifies that participants in the competitive bidding process shall be subject to the schedule of charges contained in section 8 of the Communications Act.

### *Conference agreement*

The Conference Agreement adopts the House provisions.

## SECTION 309(j)(6)

### *House bill*

Section 309(j)(6) contains rules of construction, and stipulates that nothing in the use of competitive bidding for the award of licenses shall limit or otherwise affect the requirements of the Communications Act that limit the rights of licensees, or require the Commission to adhere to other requirements. In particular, the



LEGISLATIVE HISTORY  
HOUSE REPORT NO. 103-111  
[page 253]

SECTION-BY-SECTION ANALYSIS

CHAPTER 1—COMPETITIVE BIDDING AUTHORITY

Section 5201

Short title—"Licensing Improvement Act of 1993".

Section 5202

**Findings.** The Committee finds that current licensing procedures often delay delivery of services to the public and can result in unjust enrichment of applicants; that if licensees are engaged in reselling the use of the public airwaves to subscribers for a fee, the licensee should pay reasonable compensation to the public for those resources; that a carefully designed system to obtain competitive bids from competing qualified applicants can speed delivery of services, promote efficient and intensive use of the electromagnetic spectrum, prevent unjust enrichment, and produce revenues to compensate the public for the use of the public airwaves; and that therefore, the Federal Communications Commission should have the authority to issue licenses utilizing a system of competitive bids.

Section 5203

**Authority to use competitive bidding.** This section amends section 309 by adding a new subsection (j), which grants the FCC authority to use a system of competitive bidding as a means of granting licenses. This authority is in addition to the FCC's existing authority to use comparative hearings and lotteries; however, the Commission's authority to use lotteries is circumscribed by section 5206(c). The authority would apply only when there are mutually exclusive applications for an initial license for a use described in subsection 309(j)(2). Competitive bidding would not be permitted to be used for unlicensed uses; in situations where there is only one application for a license, or in the case of for a renewal or modification of the license.

Section 309(j)(2) defines the uses to which bidding may apply. This paragraph provides that where the Commission determines that the principal use of the spectrum will be to, in essence, resell the spectrum to subscribers, and the Commission determines that an auction will meet the objectives in section 309(j)(3) discussed below, then that class of licenses should be subject to competitive bidding. The Committee's extensive record reveals that there are limited cases in which competitive bidding would be appropriate and in the public interest. The limited grant of authority contained in this section is designed so that only those classes of licenses would be issued utilizing a system of competitive bidding. The enactment of section 309(j) should not affect the manner in which the Commission issues licenses for virtually all private services, including frequencies utilized by Public Safety Services, the Broadcast Auxiliary Service, and for subcarriers and other services where the signal is indivisible from the main channel signal. Similarly, inasmuch as mass media broadcast signals are provided to the general public without the payment of a subscription fee, the current licensing practices of the FCC remain unchanged. The fact that some

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individual described in subparagraph (b) for a month shall be reduced by the amount specified in the following table:

The applicable reduction percent is:

25 percent  
30 percent  
35 percent  
40 percent  
45 percent

ated in this subparagraph with respect  
al who establishes to the satisfaction  
f the last day of the previous month.

3 quarters of coverage under title II;  
and had been married for the previous  
individual who had at least 30 quarters  
title:

ried to an individual for a period of  
e time of such individual's death) if  
ual had at least 30 quarters of coverage

an individual and had been married  
period of at least 10 years (at the  
at such time the individual had at  
age under such title."

The amendments made by this section  
niums under section 1818 of the Social  
nning with January 1, 1994.

## QUESTIONS RELATING TO PART B

## Physicians' Services

**DEFAULT UPDATE FOR CONVERSION FAC.  
ND 1995.**

tion 1848 (42 U.S.C. 1395w-4) is

(3)(A)—  
, by striking "clause (iii)" and inserting  
b (v)", and

at the end the following new clauses:  
STATEMENT IN PERCENTAGE INCREASE FOR  
ing clause (i) for services furnished in  
centage increase in the appropriate  
ll be reduced by—

percentage points for services included  
category of surgical services (as defined  
of subsection (j)(1)), and

percentage points for other services.

MENT IN PERCENTAGE INCREASE FOR  
 ing clause (i) for services furnished in  
 percentage increase in the appropriate  
 shall be reduced by 2.7 percentage points.

PTION FOR CATEGORY OF PRIMARY CARE  
cases (iv) and (v) shall not apply to serv-

7 STAT. 580

**AUG. 10**

P.L. 103-66  
Sec. 13513

ices included in the category of primary care services (as defined for purposes of subsection (j)(1))."; and (2) in subsection (j)(1), by striking "Secretary" and inserting "Secretary and including anesthesia services), primary care services (as defined in section 1842(i)(4)).".

(b) **EFFECTIVE DATES.**—The amendments made by this section shall apply to services furnished on or after January 1, 1994; except that amendment made by subsection (a)(2) shall not apply—

lished under section 1848(f) of the Social Security Act for fiscal years before fiscal year 1994, and

(2) to adjustment in updates in the conversion factors for physicians' services under section 1848(d)(3)(B) of such Act for physicians' services to be furnished in calendar years before 1996.

SEC. 13612. REDUCTION IN PERFORMANCE STANDARD RATE OF INCREASE AND INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.

(a) REDUCTION IN PERFORMANCE STANDARD FACTOR.—Section 1418(f)(2)(B) (42 U.S.C. 1395w-4(f)(2)(B)) is amended—

(1) by striking "and" at the end of clause (ii), and

"(iii) for 1993 is 2 percentage points,  
 "(iv) for 1994 is 3½ percentage points, and  
 "(v) for each succeeding year is 4 percentage  
 points."

(b) INCREASE IN MAXIMUM REDUCTION PERMITTED IN DEFAULT UPDATE.—Section 1848(d)(3)(B)(ii) (42 U.S.C. 1395w-4(d)(3)(B)(ii)) is amended—

(1) in subclause (II), by striking "or 1995", and

(2) in subclause (III), by striking "3" and inserting "5".

### SEC. 13513. PRACTICE EXPENSE RELATIVE VALUE UNITS.

Section 1848(c)(2) (42 U.S.C. 1395w-4(c)(2)) is amended by adding at the end the following new subparagraph:

(E) REDUCTION IN PRACTICE EXPENSE RELATIVE VALUE  
UNITS FOR CERTAIN SERVICES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary shall reduce the practice expense relative value units applied to services described in clause (iii) furnished in—

"(I) 1994, by 25 percent of the number by which the number of practice expense relative value units (determined for 1994 without regard to this subparagraph) exceeds the number of work relative value units determined for 1994.

“(II) 1995, by an additional 25 percent of such excess, and

(III) 1996, by an additional 25 percent of such excess.

(ii) FLOOR ON REDUCTIONS.—The practice expense relative value units for a physician's service shall not be reduced under this subparagraph to a number less than 128 percent of the number of work relative value units.

(iii) **SERVICES COVERED.**—For purposes of clause (i), the services described in this clause are physicians'

107 STAT. 581

tunities to become Commission licensees, and ensure that the adoption of the competitive bidding provisions of this section will not have the effect of excluding small businesses from the Commission's licensing procedures.

The Committee adopted an amendment to ensure that all small businesses will be covered by the Commission's regulations, including those owned by members of minority groups and women. The Committee recognizes that, unlike mass media licenses, where diversity in ownership contributes to diversity of viewpoints, most of the licenses issued pursuant to the competitive bidding authority contained in section 309(j) will be for services where the race or gender of the licensee will not affect the delivery of service to the public. Nevertheless, the Commission should adopt regulations pursuant to this section to ensure that businesses owned by members of minority groups and women are not in any way excluded from the competitive bidding process.

Section 309(j)(4) requires the Commission to establish rules to implement the objectives set forth above. In prescribing these rules, the Commission is required to consider alternative payment schedules and methods of calculation, including initial lump sum payments, installment or royalty payments, guaranteed annual minimum payments, or some combination so as to promote economic opportunity as defined in paragraph 3(b).

One of the primary criticisms of utilizing competitive bidding to issue licenses is that the process could inadvertently have the effect of favoring only those with "deep pockets", and therefore have the wherewithal to participate in the bidding process. This would have the effect of favoring incumbents, with established revenue streams, over new companies or start-ups. The Committee has given the Commission the flexibility to design alternative payment schedules in order that this not occur.

While it is clear that, in many instances, the objectives of section 309(j) will best be served by a traditional, "cash-on-the-barrelhead" auction, it is important that the Commission employ different methodologies as appropriate. Under this subsection, the Commission has the flexibility to utilize any combination of techniques that would serve the public interest.

The Committee anticipates that in some instances the Commission will act in a manner that is comparable to a mortgage banker, who designs new mortgage instruments in order to increase the universe of people who can afford to buy homes. The Commission's adoption of any competitive bidding methodology will have the effect of determining whether there will be widespread participation in the licensing process, or whether participation will be restricted to a few, well-heeled firms. A new and innovative proposal that may have a high risk factor, for example, may lead the Commission to structure a bidding system that requires only minimal payments during the construction phase, followed by higher payments as a revenue stream develops, and perhaps with a balloon payment at the end of the license term. It is the Committee's intention that the Commission's methodology for any given service or class of license be based on the characteristics of the service itself, in order to promote the objectives and requirements of section 309(j).

# 100s THE B.E. INDUSTRIAL/ SERVICE COMPANIES

THIS YEAR	LAST YEAR	COMPANY	LOCATION	CHIEF EXECUTIVE	YEAR STARTED	STAFF	TYPE OF BUSINESS	SALES*
1	1	TLC BEATRICE INTERNATIONAL HOLDINGS INC.	New York, New York	Loida M. Lewis Jean S. Fugett Jr.	1987	4,500	International food processor & distributor	1,700,000
2	2	JOHNSON PUBLISHING CO. INC.	Chicago, Illinois	John H. Johnson	1942	2,600	Publishing; broadcasting; TV production; cosmetics; hair care	293,794
3	3	PHILADELPHIA COCA-COLA BOTTLING CO. INC.	Philadelphia, Pennsylvania	J. Bruce Llewellyn	1985	1,000	Soft drinks bottling	290,000
4	4	H.J. RUSSELL & CO.	Atlanta, Georgia	Herman J. Russell	1952	984	Construction development & management; communications	152,400
5	6	RMS TECHNOLOGIES INC.	Marlton, New Jersey	David W. Huggins	1977	1,178	Computer & technical services	115,200
6	5	THE ANDERSON-DUBOSE CO.	Solon, Ohio	Warren Anderson	1991	80	Food distributor	115,000
7	7	GOLD LINE REFINING LTD.	Houston, Texas	Earl Thomas	1990	58	Oil refinery	108,119
8	10	THREADS 4 LIFE (D/B/A CROSS COLOURS)	Commerce, California	Carl Jones	1990	250	Apparel manufacturer	97,000
9	8	SOFT SHEEN PRODUCTS INC.	Chicago, Illinois	Edward G. Gardner	1964	419	Hair care products manufacturer	96,600
10	9	GARDEN STATE CABLE TV	Cherry Hill, New Jersey	J. Bruce Llewellyn	1989	300	Cable TV operator	96,000
11	—	ENVIROTEST SYSTEMS CORP.	Tucson, Arizona	Chester C. Davenport	1990	1,921	Vehicle emissions testing	90,000
12	12	THE BING GROUP	Detroit, Michigan	David Bing	1980	242	Steel processing; metal stamping distribution	83,324
13	11	BARDEN COMMUNICATIONS INC.	Detroit, Michigan	Don H. Barden	1981	350	Communications; real estate development	82,400
14	15	PULSAR DATA SYSTEMS INC.	New Castle, Delaware	William W. Davis Sr.	1982	79	Systems integration; office automation; computer reseller	79,100
15	40	DREW PEARSON COMPANIES	Addison, Texas	Drew Pearson Kenneth Shead	1985	130	Sports licensing & sportswear manufacturing	77,525
16	14	UNIWORLD GROUP INC.	New York, New York	Byron E. Lewis	1969	90	Advertising; public relations; event marketing; TV programming	77,091
17	13	BURRELL COMMUNICATIONS GROUP	Chicago, Illinois	Thomas J. Burrell	1971	120	Advertising; public relations; consumer promotions	74,700
18	17	BLACK ENTERTAINMENT TELEVISION HOLDINGS	Washington, D.C.	Robert Johnson	1980	350	Cable television network; magazine publishing	74,218
19	19	ESSENCE COMMUNICATIONS INC.	New York, New York	Edward Lewis	1969	94	Magazine publishing; TV production; direct-mail catalog	71,146
20	18	MAYS CHEMICAL COMPANY INC.	Indianapolis, Indiana	William G. Mays	1980	86	Industrial chemical distributors	65,000

\*In millions of dollars, to nearest thousand. As of Dec. 31, 1993. Prepared by B.E. Research. Reviewed by Mitchell/Titus & Co.

# THE 100s INDUSTRIAL/ SERVICE COMPANIES

THIS YEAR	LAST YEAR	COMPANY	LOCATION	CHIEF EXECUTIVE	YEAR STARTED	STAFF	TYPE OF BUSINESS	SALES*
21	16	STOP SHOP AND SAVE	Baltimore, Maryland	Henry T. Barnes Edward Hunt	1978	560	Supermarkets	64.020
22	57	AFRICAN DEVELOPMENT PUBLIC INVESTMENT CORP.	Hollywood, California	Dick Griffey	1985	8	African commodities; air charter service & oil trading	57.818
23	26	WESLEY INDUSTRIES INC.	Flint, Michigan	Delbert W. Mullens	1983	395	Industrial coatings & grey iron foundry products	55.557
24	42	TRUMARK INC.	Lansing, Michigan	Carlton L. Guthrie	1985	390	Automotive metal stampings & exhaust products	52.100
25	30	THE MINGO GROUP	New York, New York	Samuel J. Chisholm	1977	40	Advertising; public relations	50.047
26	27	PEPSI COLA OF WASHINGTON, D.C., L.P.	Washington, D.C.	Earl G. Graves	1990	143	Soft drink distributor	49.283
27	22	SURFACE PROTECTION INDUSTRIES	Los Angeles, California	Robert C. Davidson Jr.	1978	200	Paint & specialty coatings manufacturer	48.500
28	20	COMMUNITY FOODS INC. T/A SUPER PRIDE MARKETS	Baltimore, Maryland	Oscar A. Smith Jr.	1970	400	Supermarkets	47.500
29	23	LUSTER PRODUCTS CO.	Chicago, Illinois	Jory Luster	1957	313	Hair care products manufacturer & distributor	46.000
30	29	GRANITE BROADCASTING CORP.	New York, New York	W. Don Cornwell	1988	450	Network TV affiliates	45.167
31	40	CAPSONIC GROUP INC. DIV. OF GABRIEL INC.	Elgin, Illinois	James Liataud	1968	350	Composite components for auto & computer control systems	43.721
32	31	CREST COMPUTERS & SUPPLIES	Skokie, Illinois	Gale Sayers	1984	60	Computer hardware/software supplier & systems integrator	43.000
33	25	THE MAXIMA CORP.	Lanham, Maryland	Joshua I. Smith	1978	730	Systems engineering; computer facilities management	41.110
34	36	PRO-LINE CORP.	Dallas, Texas	Comer J. Cottrell	1970	236	Hair care products manufacturer & distributor	40.516
35	37	THACKER ENGINEERING INC.	Atlanta, Georgia	Floyd Thacker	1970	126	Construction; construction management; engineering	39.200
36	38	CALHOUN FOOD SUPERMARKET	Montgomery, Alabama	Greg Calhoun	1984	350	Supermarket	37.179
37	34	GRIMES OIL CO. INC.	Boston, Massachusetts	Calvin M. Grimes	1940	20	Petroleum products distributor	37.000
37	65	SYLVEST MANAGEMENT SYSTEMS CORP.	Lanham, Maryland	Gary S. Murray	1987	54	Computer systems & engineering	37.000
39	39	THE GOURMET COMPANIES	Atlanta, Georgia	Nathaniel Goldstein III	1975	1,000	Food service; golf facilities management	36.750
40	35	WESTSIDE DISTRIBUTORS	South Gate, California	Edison R. Lara Sr.	1974	115	Beer & snack foods distributor	35.000

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# THE B.E. 100s INDUSTRIAL/ SERVICE COMPANIES

THIS YEAR	LAST YEAR	COMPANY	LOCATION	CHIEF EXECUTIVE	YEAR STARTED	STAFF	TYPE OF BUSINESS	SALES*
41	45	METTERS INDUSTRIES INC.	McLean, Virginia	Samuel Metters	1981	465	Systems engineering; configuration & data mgt.	34.861
42	28	INTEGRATED SYSTEMS ANALYSTS INC.	Arlington, Virginia	C. Michael Gooden	1980	540	Systems engineering; computer systems services repair	34.600
43	32	BEAUCHAMP DISTRIBUTING CO.	Compton, California	Patrick L. Beauchamp	1971	97	Beverage distributor	34.496
44	—	THOMPSON HOSPITALITY L.P.	Reston, Virginia	Warren M. Thompson	1992	1,925	Restaurant & food service	34.250
45	47	ADVANTAGE ENTERPRISES INC.	Toledo, Ohio	Levi Cook Jr.	1980	357	Project integrator for health care & construction	32.595
46	48	DUDLEY PRODUCTS INC.	Greensboro, North Carolina	Joe Louis Dudley Sr.	1967	505	Beauty products manufacturer	32.500
47	44	AM-PRO PROTECTIVE AGENCY INC.	Columbia, South Carolina	John E. Brown	1982	1,200	Security guard services	31.565
48	50	BROOKS SAUSAGE CO. INC.	Kenosha, Wisconsin	Frank B. Brooks	1985	160	Sausage manufacturer	31.500
49	63	R. O. W. SCIENCES INC.	Rockville, Maryland	Ralph Williams	1983	485	Biomedical & health services; research	31.000
49	33	RUSH COMMUNICATIONS	New York, New York	Russell Simmons	1990	70	Music publishing; TV, film, radio production	31.000
51	—	EDGE SYSTEMS INC.	Aurora, Illinois	Sam Bishop	1985	60	Computer systems integration; turn- key computer systems for imaging	30.081
52	51	INNER CITY BROADCASTING CORP.	New York, New York	Pierre Sutton	1972	205	Radio, TV, cable TV franchise	29.000
52	51	YANCY MINERALS	Woodbridge, Connecticut	Earl J. Yancy	1977	12	Industrial metals, minerals & coal distributors	29.000
54	—	DIGITAL SYSTEMS RESEARCH INC.	Arlington, Virginia	Willie Woods	1988	262	Defense systems; engineering; computer systems integration	28.978
55	48	AUTOMATED SCIENCES GROUP INC.	Silver Spring, Maryland	Arthur Holmes Jr.	1974	300	Information and sensor technologies manufacturer	28.000
56	54	QUEEN CITY BROADCASTING INC.	New York, New York	J. Bruce Llewellyn	1985	130	Network TV affiliates	27.800
57	53	CIMARRON EXPRESS INC.	Genea, Ohio	Glenn G. Grady	1984	85	Contract carrier	26.500
57	62	DICK GRIFFEY PRODUCTIONS	Hollywood, California	Dick Griffey	1975	102	Entertainment	26.500
59	55	INTEGRATED STEEL INC.	Detroit, Michigan	Gerald L. Dodd	1990	235	Automotive stamping & steel sales & processing	26.000
59	—	O. J. TRANSPORT CO.	Detroit, Michigan	John A. James	1971	225	Transportation service	26.000

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# 100s THE B.E. INDUSTRIAL/ SERVICE COMPANIES

THIS YEAR	LAST YEAR	COMPANY	LOCATION	CHIEF EXECUTIVE	YEAR STARTED	STAFF	TYPE OF BUSINESS	SALES*
59	55	PREMIUM DISTRIBUTORS INC. OF WASHINGTON, D.C.	Washington, D.C.	Henry Meloms	1984	75	Beverage distributor	26.000
62	67	SIMMONS ENTERPRISES INC.	Cincinnati, Ohio	Carvel Simmons	1970	80	Trucking; farm operations; day care	25.770
63	58	RESTORATION SUPERMARKET CORP.	Brooklyn, New York	Roderick B. Mitchell	1977	169	Supermarket & drugstore	25.750
64	69	H.F. HENDERSON INDUSTRIES INC.	West Caldwell, New Jersey	Henry F. Henderson Jr.	1954	126	Industrial process controls & defense electronics	25.659
65	—	ADVANCE INC.	Arlington, Virginia	Dennis Brownlee	1980	270	Computer systems integration; telecommunications	25.400
66	43	NETWORK SOLUTIONS INC.	Herndon, Virginia	Ernest J. McHenry	1979	314	Systems integration	24.500
67	59	NAVCOM SYSTEMS INC.	Manassas, Virginia	Elijah "Zake" Jackson	1986	150	Electronic engineering, design, integration, manufacturing/assembly	23.600
68	66	REGAL PLASTICS CO. INC.	Roseville, Michigan	William F. Pickard	1985	200	Custom plastic injection molding	23.500
69	—	LUNDY ENTERPRISES	New Orleans, Louisiana	Larry Lundy	1992	1,000	Fast-food restaurants	23.300
70	—	V & J FOODS INC.	Milwaukee, Wisconsin	Valerie Daniels-Carter	1984	1,100	Fast-food restaurants	23.000
71	61	PARKS SAUSAGE CO.	Baltimore, Maryland	Raymond Haysbert Sr.	1951	230	Sausage manufacturer	22.886
72	68	EARL G. GRAVES LTD.	New York, New York	Earl G. Graves	1970	65	Magazine publishing	22.434
73	71	D-ORUM HAIRCARE PRODUCTS	Gary, Indiana	Ernest Durham	1979	130	Minority hair products manufacturer	22.000
74	83	SYSTEMS ENGINEERING & MANAGEMENT ASSOCIATES INC.	Alexandria, Virginia	James C. Smith	1985	274	ADP technical support services	21.500
75	72	BRONNER BROTHERS	Atlanta, Georgia	Bernard Bronner	1947	250	Hair care products manufacturer	21.000
75	73	DUAL INC.	Arlington, Virginia	J. Fred Dual Jr.	1983	300	Engineering & technical services	21.000
77	64	AMERICAN DEVELOPMENT CORP.	N. Charleston, South Carolina	W. Melvin Brown Jr.	1972	218	Manufacturing & sheet metal fabrication	20.000
77	—	DYNAMIC CONCEPTS INC.	Washington, D.C.	Pedro Alfonso	1979	460	Telecommunication support; optical imaging & facilities mgt.	20.000
77	60	LOCKHART & PETTUS INC.	New York, New York	Keith E. Lockhart	1977	28	Advertising agency	20.000
77	70	STEPHENS ENGINEERING CO. INC.	Lanham, Maryland	Wallace O. Stephens	1979	140	Systems integration; facility & computer maintenance	20.000

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# THE B.E. 100s

## INDUSTRIAL/ SERVICE COMPANIES

THIS YEAR	LAST YEAR	COMPANY	LOCATION	CHIEF EXECUTIVE	YEAR STARTED	STAFF	TYPE OF BUSINESS	SALES*
77	77	TERRY MANUFACTURING CO. INC.	Roanoke, Alabama	Ray Terry	1963	300	Apparel manufacturer	20.000
82	75	CONSOLIDATED BEVERAGE CORP.	New York, New York	Albert M. Thompson	1978	24	Beverage exporter & importer	19.600
83	84	MID-DELTA HOME HEALTH INC.	Belzoni, Mississippi	Clara Taylor Reed	1978	350	Home health care; medical equipment & supplies	19.500
84	—	TEXCOM INC.	Landover, Maryland	Clemon H. Wesley	1982	261	Telecommunications; systems engi- neering, installation, maintenance	19.389
85	—	CROWN ENERGY INC.	Chicago, Illinois	Charles Harrison	1987	6	Petroleum products distributor	19.000
85	79	OZANNE CONSTRUCTION CO. INC.	Cleveland, Ohio	Leroy Ozanne	1956	125	General construction & construction management	19.000
87	84	URBAN ORGANIZATION INC.	Miami, Florida	Jacque E. Thermilus	1988	140	General contracting & construction management	18.240
88	—	RESOURCE COMPUTER SYSTEMS ONE	Dublin, Ohio	Stampp W. Corbin	1992	15	Computer hardware & software	18.200
89	—	TRI-STATE DESIGN CONSTRUCTION CO. INC.	Fort Washington, Pennsylvania	Ronald Davis	1981	75	Construction & construction management	17.235
90	—	SOLO CONSTRUCTION CORP.	N. Miami Beach, Florida	Randy Pierson Derron Pierson	1978	78	General engineering construction	17.536
91	—	MYRIAD INDUSTRIES INC.	National City, California	Jerome C. Crawford	1992	500	Shipbuilding & repair; electrical contracting	17.000
92	81	UBM INC.	Chicago, Illinois	Sandra D. Jiles, P. King & S. Dabodghane	1975	55	General construction & construction management	16.800
93	—	LA-VAN HAWKINS INNER CITY FOODS	Atlanta, Georgia	La-Van Hawkins	1991	2,500	Fast-foods restaurant	16.547
94	—	CORPORATE OFFICE SYSTEMS INC.	Chicago, Illinois	Costello Johnson	1989	24	Office furniture dealership; interior design & space planning	16.500
95	87	SPECIALIZED PACKAGING INTERNATIONAL INC.	Hamden, Connecticut	Carlton L. Highsmith	1983	7	Packaging design; engineering brokerage	16.314
96	84	AMERICAN URBAN RADIO NETWORKS	New York, New York	Sydney Small Ronald Davenport	1973	65	Radio network; radio station; telemarketing	16.000
97	—	JOE MORGAN BEVERAGE CO.	Hayward, California	Joe Morgan	1987	55	Wholesale beverage distributor	15.750
98	89	TRESP ASSOCIATES INC.	Alexandria, Virginia	Lillian B. Hardy	1981	285	Military logistics; systems engi- neering; computer integration	15.100
99	—	G & C EQUIPMENT CORP.	Gardena, California	Gene Hale	1981	8	Sale, lease & rental of heavy construction equipment	15.000
99	—	PHOENIX OIL CO.	Chicago, Illinois	Mark A. Reddick	1987	14	Gasoline, diesel & industrial lubricants	15.000

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